

VPI/98-104 USIN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants : Keisuke Kuida & Richard A. Flavell
Application No.: 09/728,173 Confirmation No.: 4567
Group Art Unit: 1645
Examiner : Not Yet Assigned
Filed : December 1, 2000
For : CAPASE-9 DEFICIENT ANIMALS AND THE USE THEREOF

Cambridge, Massachusetts
April 28, 2004

Mail Stop Missing Parts
Commissioner For Patents
P.O. Box 1450
Alexandria, VA 22313-1450

TRANSMITTAL LETTER FOR RESPONSE TO NOTICE TO FILE MISSING PARTS
AND
FOR PETITION FOR REVIVAL

Sir:

Transmitted herewith in response to the Notice to File Missing Parts of
Nonprovisional Application – Filing Date Granted, mailed October 19, 2001 in the above-
identified application, are the following:

1. copy of the Notice To File Missing Parts Of Nonprovisional Application
(2 pages); and
2. Executed Declaration And Power of Attorney For Patent Application
(6 pages); and
3. Fee in the amount of \$130.00 in payment of the surcharge required under
37 C.F.R. § 1.16(e).

Transmitted herewith in response to the Notice of Abandonment, mailed May 23, 2003 in the above-identified application, are the following:

4. Petition Pursuant to 37 C.F.R. § 1.137(b) For Revival Of An Abandoned Application (2 pages, in duplicate);
5. copy of the Notice Of Abandonment;
6. Fee in the amount of \$1,330.00 in payment of the petition fee set forth in 37 C.F.R. § 1.17(m).

Applicants hereby authorize the Director to charge Deposit Account No. 50-0725 in the amount of \$1,460.00 to cover the Petition for Revival of an Application for Patent Abandoned, Filing fee and the Surcharge pursuant to 37 C.F.R. § 1.27 and 37 C.F.R. § 1.16(e).

The Director is hereby authorized to charge payment of any additional fees required under 37 C.F.R. § 1.16 in connection with the papers transmitted herewith, or credit any overpayment of the same, to Deposit Account No. 50-0725. A duplicate copy of this transmittal letter is transmitted herewith.

Respectfully submitted,



Lisa A. Dixon, Reg. No. 40,995
Attorney for Applicants
c/o Vertex Pharmaceuticals Incorporated
130 Waverly Street
Cambridge, MA 02139-4242
Tel.: (617) 444-6396
Fax.: (617) 444-6483



UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
09/728,173	12/01/2000	Keisuke Kuida	

CONFIRMATION NO. 4567

FORMALITIES LETTER



OC000000005835456

Andrew S. Marks
c/o Vertex Pharmaceuticals Incorporated
130 Waverly Street
Cambridge, MA 02139-4242

Date Mailed: 03/07/2001

NOTICE TO FILE MISSING PARTS OF NONPROVISIONAL APPLICATION

FILED UNDER 37 CFR 1.53(b)

Filing Date Granted

An application number and filing date have been accorded to this application. The item(s) indicated below, however, are missing. Applicant is given TWO MONTHS from the date of this Notice within which to file all required items and pay any fees required below to avoid abandonment. Extensions of time may be obtained by filing a petition accompanied by the extension fee under the provisions of 37 CFR 1.136(a).

- The oath or declaration is missing.
- To avoid abandonment, a late filing fee or oath or declaration surcharge as set forth in 37 CFR 1.16(e) of \$130 for a non-small entity, must be submitted with the missing items identified in this letter.
- The balance due by applicant is \$ 130.

The following item(s) appear to have been omitted from the application:

- Figure(s) 7 described in the specification.

I. Should applicant contend that the above-noted omitted item(s) was in fact deposited in the Patent and Trademark Office (PTO) with the nonprovisional application papers, a copy of this Notice and a petition (and \$130.00 petition fee (37 CFR 1.17(i))) with evidence of such deposit **must** be filed within **TWO MONTHS** of the date of this Notice. The petition fee will be refunded if it is determined that the item(s) was received by the PTO.

II. Should applicant desire to supply the omitted item(s) and accept the date that such omitted item(s) was filed in the PTO as the filing date of the above-identified application, a copy of this Notice, the omitted item(s) (with a supplemental oath or declaration in compliance with 37 CFR 1.63 and 1.64 referring to such items), and a petition under 37 CFR 1.182 (with the \$130.00 petition fee (37 CFR 1.17(h))) requesting the later filing date **must** be filed within **TWO MONTHS** of the date of this Notice.

III. The failure to file a petition (and petition fee) under the above options (I) or (II) within **TWO MONTHS** of the date of this Notice (37 CFR 1.181(f)) will be treated as a constructive acceptance by the applicant of the application as deposited in the PTO. **THIS TWO MONTH PERIOD IS NOT EXTENDABLE UNDER 37 CFR**

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1.136(a) or (b). In the absence of a timely filed petition in reply to this Notice, the application will maintain a filing date as of the date of deposit of the application papers in the PTO, and original application papers (i.e., the original disclosure of the invention) will include only those application papers present in the PTO on the date of deposit.

In the event that applicant elects not to take action pursuant to options (I) or (II) above (thereby constructively electing option (III)), amendment of the specification to renumber the pages consecutively and cancel incomplete sentences caused by any omitted page(s), and/or amendment of the specification to cancel all references to any omitted drawing(s), relabel the drawing figures to be numbered consecutively (if necessary), and correct the references in the specification to the drawing figures to correspond with any relabelled drawing figures, is required. Any drawing changes should be accompanied by a copy of the drawing figures showing the proposed changes in red ink. Such amendment and/or correction to the drawing figures, if necessary, should be by way of preliminary amendment submitted prior to the first Office action to avoid delays in the prosecution of the application.

*A copy of this notice **MUST** be returned with the reply.*


Customer Service Center

Initial Patent Examination Division (703) 308-1202

PART 2 - COPY TO BE RETURNED WITH RESPONSE



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
09/728,173	12/01/2000	Keisuke Kuida	

CONFIRMATION NO. 4567

ABANDONMENT/TERMINATION
LETTER

OC000000010111879

Andrew S. Marks
c/o Vertex Pharmaceuticals Incorporated
130 Waverly Street
Cambridge, MA 02139-4242

Date Mailed: 05/23/2003

NOTICE OF ABANDONMENT UNDER 37 CFR 1.53 (f) OR (g)

The above-identified application is abandoned for failure to timely or properly reply to the Notice to File Missing Parts (Notice) mailed on 03/07/2001.

- No reply was received.


A petition to the Commissioner under 37 CFR 1.137 may be filed requesting that the application be revived.

Under 37 CFR 1.137(a), a petition requesting the application be revived on the grounds of **UNAVOIDABLE DELAY** must be filed promptly after the applicant becomes aware of the abandonment and such petition must be accompanied by: (1) an adequate showing of the cause of unavoidable delay; (2) the required reply to the above-identified Notice; (3) the petition fee set forth in 37 CFR 1.17(l); and (4) a terminal disclaimer if required by 37 CFR 1.137(d).

Under 37 CFR 1.137(b), a petition requesting the application be revived on the grounds of **UNINTENTIONAL DELAY** must be filed promptly after applicant becomes aware of the abandonment and such petition must be accompanied by: (1) a statement that the entire delay was unintentional; (2) the required reply to the above-identified Notice; (3) the petition fee set forth in 37 CFR 1.17(m); and (4) a terminal disclaimer if required by 37 CFR 1.137(d).

Any questions concerning petitions to revive should be directed to "Office of Petitions" at (703) 305-9282.

*A copy of this notice **MUST** be returned with the reply.*


Customer Service Center
Initial Patent Examination Division (703) 308-1202

PART 2 - COPY TO BE RETURNED WITH RESPONSE

VPI/98-104 CIP CON

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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APR 30

Applicants : Keisuke Kuida & Richard A. Flavell
Application No.: 09/728,173 Confirmation No.: 4567
Group Art Unit: 1645
Examiner : Not Yet Assigned
Filed : December 1, 2000
For : CAPASE-9 DEFICIENT ANIMALS AND THE USE THEREOF

MS PETITION
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

Cambridge, Massachusetts
April 28, 2004

AMENDED PETITION PURSUANT TO 37 C.F.R. § 1.137(b)
FOR REVIVAL OF ABANDONED APPLICATION

Sir:

Pursuant to 37 C.F.R. § 1.137(b), applicants hereby petition for revival of the above-identified patent application.

This amended petition is to correct an inadvertent error in applicants' original petition for revival ("original petition") submitted by facsimile on April 28, 2004 in the above-identified patent application. Specifically, applicants' original petition omitted a statement regarding the delay in filing a timely reply in this application (see below).

This application unintentionally became abandoned as of May 7, 2001 because of applicants' lack of response to the Notice To File Missing Parts Of Nonprovisional Application dated March 7, 2001 ("Notice"), which set a two-month period for response.

As required by 37 C.F.R. § 1.137(b), the original petition was accompanied

by:

- (1) A reply to the Notice; and
- (2) A fee in the amount of \$1,330.00 in payment of the petition fee set forth in 37 C.F.R. § 1.17(m).

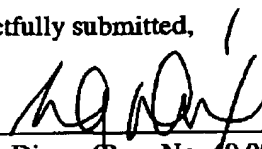
Applicants hereby authorize the Director to charge Deposit Account No. 50-0725 in the amount of \$1,330.00 in payment of the petition fee set forth in 37 C.F.R. § 1.17(m).

Pursuant to 37 C.F.R. § 1.137(c), the original petition was not accompanied by a terminal disclaimer. This is a utility application that was filed after June 8, 1995. Thus, no terminal disclaimer should be required in connection with this petition.

The entire delay in filing the required application from the May 7, 2001 Notice due date until the filing of this grantable petition under 37 C.F.R. § 1.137(b) was unintentional. Accordingly, applicants respectfully request that this petition be granted and the above-identified patent application be revived. Early and favorable consideration of this Petition are respectfully requested.

The Director is hereby authorized to charge any additional fee due, or credit any overpayment, in connection with this petition, to Deposit Account No. 50-0725. A duplicate copy of this Petition is enclosed herewith.

Respectfully submitted,



Lisa A. Dixon (Reg. No. 40,995)

Attorney for Applicants

c/o Vertex Pharmaceuticals Incorporated
130 Waverly Street
Cambridge, Massachusetts 02139
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APR 30 2004

To	Office of Petitions
Company	USPTO
FAX	(703) 872-9306
From	Lisa A. Dixon
Date	April 28, 2004
Subject	Application No. 09/728,173 Attorney Docket No. VPI/98-104 CIP CON
Total Pages	19

Message or Comment

Attached are: Transmittal Letter (2 pages, in duplicate); copy of Notice to File Missing Parts of Nonprovisional Application (2 pages); Executed Declaration (6 pages); Petition For Revival Abandoned Application (2 pages, in duplicate); and copy of Notice Of Abandonment (1 page); in the above-identified application.

CERTIFICATE OF FACSIMILE TRANSMISSION

I hereby certify that this correspondence, and any documents referred to as attached hereto, is/are being transmitted to the United States Patent and Trademark Office, Facsimile Number: (703) 872-9306 on this 22nd day of April 2004.



Lisa A. Dixon

If any problems occur with this fax transmittal, please call (617) 444-6536 immediately.

FAX Number (617) 444-6483 Legal Department

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**VERTEX PHARMACEUTICALS INCORPORATED**

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APR 30 2004

To	Office of Petitions
Company	USPTO
FAX	(703) 872-9306
From	Lisa A. Dixon
Date	April 28, 2004
Subject	Application No. 09/728,173 Attorney Docket No. VPI/98-104 CIP CON
Total Pages	5

OFFICIAL**Message or Comment**

Attached is an Amended Petition For Revival Abandoned Application (2 pages, in duplicate).

CERTIFICATE OF FACSIMILE TRANSMISSION

I hereby certify that this correspondence, and any documents referred to as attached hereto, is/are being transmitted to the United States Patent and Trademark Office, Facsimile Number: (703) 872-9306 on this 28th day of April 2004.


Lisa A. Dixon

If any problems occur with this fax transmittal, please call (617) 444-6536 immediately.

FAX Number (617) 444-6483 Legal Department

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